

## Office of Government Ethics

## § 2638.706

Bator, Mongolia is the Ambassador. Because of the difference in time zones and the uncertainty of the Ambassador's schedule, the designated agency ethics official for the State Department is justified in making a written determination that it would be impractical to provide the Ambassador with verbal training. In this case, the Ambassador may receive written training prepared by a qualified instructor.

### § 2638.705 Annual ethics training for other employees.

(a) *Covered employees.* Each calendar year, agencies must train the following employees:

- (1) Employees appointed by the President;
- (2) Employees of the Executive Office of the President;
- (3) Employees defined as confidential filers in 5 CFR 2634.904;
- (4) Employees designated by their agency under 5 CFR 2634.601(b) to file confidential financial disclosure reports;
- (5) Contracting officers, as defined in 41 U.S.C. 423(f)(5); and
- (6) Other employees designated by the head of the agency or his or her designee based on their official duties.

NOTE TO PARAGRAPH (a): Employees described above who are also public filers must receive ethics training as provided in § 2638.704.

(b) *Content of training.* The requirements for the contents of annual training are the same as the requirements in § 2638.704(b).

(c) *Length and presentation of training.* The training for covered employees must consist of:

- (1) A minimum of one hour of official duty time for verbal training at least once every three years. The verbal training must be presented by a qualified instructor or prepared by a qualified instructor and presented by telecommunications, computer, audiotape, or videotape; and
- (2) An amount of official duty time the agency determines is sufficient for written training in the years in which the employee does not receive verbal training. The written training must be prepared by a qualified instructor. The employee's initial ethics orientation may satisfy the written training requirement for the same calendar year.

(d) *Exceptions.* Written ethics training prepared by a qualified instructor will satisfy the verbal training requirement for a covered employee (or group of covered employees) if sufficient official duty time is provided for the training and:

- (1) The designated agency ethics official (or his or her designee) makes a written determination that verbal training would be impractical;
- (2) The employee is a special Government employee expected to work 60 or fewer days in a calendar year;
- (3) The employee is an officer in the uniformed services serving on active duty for 30 or fewer consecutive days; or
- (4) The employee is designated under paragraph (a)(6) of this section to receive training.

### § 2638.706 Agency's written plan for annual ethics training.

(a) The designated agency ethics official (or his or her designee) is responsible for directing the agency's ethics training program. The designated agency ethics official (or his or her designee) must develop a written plan each year for the agency's annual training program.

(b) The written plan must be completed by the beginning of each calendar year.

(c) The written plan must contain:

- (1) A brief description of the agency's annual training.
- (2) Estimates of the number of employees who will receive verbal training according to the following table:

| Employees who will receive verbal training | Number |
|--|--------|
| (i) Public filers.                         |        |
| (ii) Employees other than public filers.   |        |

(3) An estimate of the number of employees who will receive written training according to the following table:

| Employees who will receive written training  | Number |
|--|--------|
| Employees other than public filers who will receive training under § 2638.705(c)(2). |        |

(4) Estimates of the number of employees who will receive written training instead of verbal training according to the following table:

| Employees who will receive written training instead of verbal training                      | Number |
|---|--------|
| (i) Public filers who qualify for the exception in § 2638.704(e)(1).                        |        |
| (ii) Public filers who qualify for the exception in § 2638.704(e)(2).                       |        |
| (iii) Employees other than public filers who qualify for the exception in § 2638.705(d)(1). |        |
| (iv) Employees other than public filers who qualify for the exception in § 2638.705(d)(2).  |        |
| (v) Employees other than public filers who qualify for the exception in § 2638.705(d)(3).   |        |
| (vi) Employees other than public filers who qualify for the exception in § 2638.705(d)(4).  |        |

(d) The written plan may contain any other information that the designated agency ethics official believes will assist the Office of Government Ethics in reviewing the agency's training program.

## PART 2640—INTERPRETATION, EXEMPTIONS AND WAIVER GUIDANCE CONCERNING 18 U.S.C. 208 (ACTS AFFECTING A PERSONAL FINANCIAL INTEREST)

### Subpart A—General Provisions

|          |              |
|----------|--------------|
| Sec.     |              |
| 2640.101 | Purpose.     |
| 2640.102 | Definitions. |
| 2640.103 | Prohibition. |

### Subpart B—Exemptions Pursuant to 18 U.S.C. 208(b)(2)

|          |   |
|----------|---|
| 2640.201 | Exemptions for interests in mutual funds, unit investment trusts, and employee benefit plans. |
| 2640.202 | Exemptions for interests in securities.   |
| 2640.203 | Miscellaneous exemptions.   |
| 2640.204 | Prohibited financial interests.   |
| 2640.205 | Employee responsibility.  |
| 2640.206 | Existing agency exemptions.   |

### Subpart C—Individual Waivers

|          |  |
|----------|--|
| 2640.301 | Waivers issued pursuant to 18 U.S.C. 208(b)(1).  |
| 2640.302 | Waivers issued pursuant to 18 U.S.C. 208(b)(3).  |
| 2640.303 | Consultation and notification regarding waivers. |
| 2640.304 | Public availability of agency waivers.           |

**AUTHORITY:** 5 U.S.C. App. (Ethics in Government Act of 1978); 18 U.S.C. 208; E.O. 12674, 54 FR 15159, 3 CFR, 1989 Comp., p. 215, as modified by E.O. 12731, 55 FR 42547, 3 CFR, 1990 Comp., p. 306.

**SOURCE:** 61 FR 66841, Dec. 18, 1996, unless otherwise noted.

## Subpart A—General Provisions

### § 2640.101 Purpose.

18 U.S.C. 208(a) prohibits an officer or employee of the executive branch, of any independent agency of the United States, of the District of Columbia, or Federal Reserve bank director, officer, or employee, or any special Government employee from participating in an official capacity in particular matters in which he has a personal financial interest, or in which certain persons or organizations with which he is affiliated have a financial interest. The statute is intended to prevent an employee from allowing personal interests to affect his official actions, and to protect governmental processes from actual or apparent conflicts of interests. However, in certain cases, the nature and size of the financial interest and the nature of the matter in which the employee would act are unlikely to affect an employee's official actions. Accordingly, the statute permits waivers of the disqualification provision in certain cases, either on an individual basis or pursuant to general regulation. Section 208(b)(2) provides that the Director of the Office of Government Ethics may, by regulation, exempt from the general prohibition, financial interests which are too remote or too inconsequential to affect the integrity of the services of the employees to which the prohibition applies. The regulations in this part describe those financial interests. This part also provides guidance to agencies on the factors to consider when issuing individual waivers under 18 U.S.C. 208 (b)(1) or (b)(3), and provides an interpretation of 18 U.S.C. 208(a).

### § 2640.102 Definitions.

For purposes of this part:

(a) *Diversified* means that the fund, trust or plan does not have a stated policy of concentrating its investments in any industry, business, single country other than the United States, or bonds of a single State within the United States and, in the case of an employee benefit plan, means that the plan's trustee has a written policy of varying plan investments.